

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

James F. Wynn,

Case No. BT 15-01621
Chapter 7
Honorable James W. Boyd

Debtor./

Daniel M. McDermott,
United States Trustee,

Plaintiff,

v.

Adv. Pro. No. 18-80071

James F. Wynn,

Defendant./

**UNITED STATES TRUSTEE'S APPLICATION FOR ENTRY OF
DEFAULT JUDGMENT UNDER FEDERAL RULE OF
BANKRUPTCY PROCEDURE 7055(B) ON THE COMPLAINT TO
REVOKE DISCHARGE FOR FAILURE TO OBEY A COURT ORDER**

Daniel M. McDermott, United States Trustee for Region 9, pursuant to his authority under 11 U.S.C. Section 307 and 28 U.S.C. Section 586(a)(3)(G), applies to the Court under Federal Rule of Bankruptcy Procedure 7055(b) for the entry of a default judgment against the Defendant, upon the United States Trustee's complaint seeking the revocation of the Debtor's discharge in this case, for the following reasons:

1. Section 727(a)(6) of Title 11 provides that the Court shall deny a discharge if the Debtor has refused to obey any lawful order of the Court.
2. The United States Trustee filed a complaint seeking the revocation of the Debtor's discharge for failure to obey lawful orders of the Court, in that the Debtor, an attorney licensed to

practice law in the State of Michigan, willfully and intentionally refused to obey the December 7, 2017, February 14, 2018, and March 19, 2018 Orders.

3. The Debtor failed to file an answer to the United States Trustee's complaint.

4. On June 21, 2018, the Clerk of the Court issued the Entry and Notice of Default.

5. In making this application for default judgment, the United States Trustee relies upon the pleadings, the Entry and Notice of Default, and the Court's Order Finding Debtor James F. Wynn in Contempt of Court entered on February 14, 2018 and Second Contempt Order entered March 19, 2018.

6. The entry of a default judgment under Federal Rule of Bankruptcy Procedure 7055(b)(2) is appropriate, in that the United States Trustee is not aware of any reason to believe that the defendant is an infant or an incompetent person.

7. The entry of a default judgment under Federal Rule of Bankruptcy Procedure 7055(b)(2) without further hearings or references is appropriate, in that it is not necessary to take into account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, as the United States Trustee is not seeking monetary damages, and the Debtor's refusal to obey a lawful order of the Court.

8. Based upon information and belief, the defendant is not in the military service and are not entitled to the benefits of the Servicemembers Civil Relief Act of 1940 (50 U.S.C. App. Section 501, et. seq.). The undersigned declares that this statement of defendant's non-military status is true and correct and is based upon the undersigned's review of the facts and circumstances surrounding the case, review of the statement of income and expenses filed in this case, and based

upon the undersigned's lack of any information or belief that there has been any change in circumstances as to the defendant's non-military status.

Therefore, the United States Trustee asks that the Court grant a default judgment under Federal Rule of Bankruptcy Procedure 7055(b) revoking the Debtor's discharge pursuant to 11 U.S.C. Section 727(a)(6), because of the Debtor's refusal to obey a lawful order of the Court, or for other relief as the Court may deem just.

Respectfully submitted,

Daniel M. McDermott
United States Trustee
Michigan/Ohio Region 9

Dated: July 9, 2018

By: /s/ Michelle M. Wilson
Michelle M. Wilson (P65625)
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